

distinctly claim the invention. No new matter has been added. Claims 97 and 109 - 113 are independent.

The specification of the present application has been amended to correct minor typographical errors and to further clarify the disclosure of the present invention. No new matter has been added.

With regard to paragraph one of the Action, the Examiner has rejected claims 1 - 96 under 35 U.S.C. § 112 as being indefinite. Claims 1 - 96 have been canceled, rendering the rejection moot. Newly-added claims 97 - 113 do not contain any of the objectionable terms "legally binding", "anonymously includes" or "anonymous mix protocol".

With respect to the rejections under 35 U.S.C. §§ 102 and 103 of paragraphs two through fourteen, claims 1-96 have been canceled, rendering the rejections moot. Newly-added claims 97 - 113 distinguish over the cited art, as discussed below.

As thoroughly described in the present application, in the present invention a buyer submits a conditional purchase offer specifying (i) a good (or service) a buyer wishes to purchase, (ii) a price the buyer is willing to pay (a buyer-specified price) for the goods, and (iii) any other conditions the buyer may require. The buyer's purchase offer has an associated payment identifier, such as a credit card number, specifying a financial account for paying the buyer-specified price if the offer is accepted. See, for example, page 17, lines 12 - 21 and page 34, line 4 through page 36, line 5. In the present invention, the purchase offer is made available to a plurality of potential sellers. The invention contemplates competing for the buyer's business, allowing the buyer to gain more favorable terms than if there were no competition among sellers. In addition, a seller conveniently receives payment via the payment identifier in exchange for accepting the conditional purchase offer.

An advantage of the present invention is that sellers may accept individual purchase offers having offer prices not generally available to the public. Consequently, accepting buyer offers at prices below his listed price will not destroy a seller's ability to continue selling at the listed prices (destroy his "price structure"). Thus, the seller may sell to buyers in accordance with the present invention at low, yet profit-yielding, prices.

Another advantage is brought about through buyers, not sellers, specifying prices. Since prices are buyer-specified, and sellers choose whether or not to accept these prices, sellers are able to sell to a set of buyers that would have otherwise been dissuaded by higher "listed" (generally available) prices. Further, buyers have the advantage of potentially lower prices than those available through traditional, seller-driven systems.

Another significant advantage of the present invention is that a payment identifier is associated with each purchase offer. Buyers do not know for sure whether their payment identifiers will be verified, so they are unlikely to submit invalid payment identifiers. Thus, each seller has a reasonable assurance that the buyer is willing to commit to a sale if the seller accepts the purchase offer. This assurance is not provided known buyer-driven commerce systems. Accordingly, commerce is greatly facilitated, and consequently more sellers become available to accept buyer offers.

Newly-added independent claims 97, 110 and 112 recite patentably distinct features, as do newly-added independent claims 109, 111 and 113, which are apparatus claims corresponding to method claims 97, 110 and 112. Independent claims 97, 110 and 112 recite the steps of receiving a conditional purchase offer which includes an offer price, and receiving a payment identifier associated with the conditional purchase offer. Independent claims 97, 110 and 112 further recite the steps of making the conditional purchase offer available to a plurality

of sellers, receiving an acceptance from a seller in response to the conditional purchase offer, and in turn providing a payment to the seller by using the payment identifier.

Independent claim 110 further recites the step of receiving authorization to use the payment identifier to provide a payment if an acceptance is received. Independent claim 112 essentially recites the steps described above in a method for using a computer to facilitate a transaction between a buyer and at least one of a plurality of sellers.

With regard to paragraph three of the Action, the Examiner has rejected claims 1-9, 13-24, 27, 28, 33-37, 41, 43-52, 54-56, 66-68, 73-82, 84-88, and 90-96 under 35 U.S.C. § 102(b) as being anticipated by the Marketel system (BookIt!) described in Reference C5. As best as can be understood from the articles that compose the Reference C5, the Marketel system was designed to match seller asking prices with buyer bid prices. The articles describe the fact that airlines would themselves submit asking prices. Purportedly, some airlines had "agreed to participate by offering non-published asking prices that are matched by BookIt! with bids from customers", as discussed in the April 29, 1991 article from Travel Weekly. Similarly, the August 19, 1991 article from The San Francisco Chronicle states that "sell" orders [are] placed anonymously by airlines, travel agencies or airline ticket wholesalers".

Clearly, the Reference C5 does not disclose or suggest the claimed step of making a conditional purchase offer available to a plurality of sellers. By contrast, the Reference C5 discloses that sellers do not receive any purchase offers; sellers instead submit asking prices to the BookIt! system. Sellers in the Reference C5 thus do not gain insight into prices buyers are willing to pay. Furthermore, the Reference C5 does not disclose or suggest the claimed step of receiving an acceptance from a seller. By contrast, since offers are not transmitted to sellers in the Reference C5, sellers cannot "accept" offers, so no acceptance can be received from a seller. The Reference C5 furthermore does not disclose or suggest the claimed step of receiving a payment identifier associated with the purchase offer. There is no indication that offers are associated with payment identifiers in Reference C5. The Reference C5 also does not disclose or suggest that the purchase offer is transmitted to the plurality of sellers after the payment identifier is received, as is also claimed.

With regard to paragraph four of the Action, the Examiner has rejected claims 1-10, 13-24, 28-30, 33-39, 43-52, 54-56, 66-68 and 73-96 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,799,156 to Shavit et al. The Examiner has stated in the rejection of paragraph four that "the multiple sellers on the [Shavit] system have access to the purchase requests of each buyer." However, Applicants were not able to find the term "purchase request" in Shavit, and Applicants assume that the Examiner is referring to RFQ (Request for Quote). In any event, an RFQ is a request from a buyer for price and delivery quotes from a seller. In Shavit, sellers, not buyers, set prices, and thus there are no purchase offers that include an offer price. See, for example, column 15, lines 45 - 60 and figure 33, which discuss sellers' price lists and seller price quotations, and column 13, lines 35-39, which describe that a buyer is provided with fixed prices for a predetermined list of items.

Since there are no purchase offers in Shavit, Shavit does not disclose or suggest the claimed steps of receiving a conditional purchase offer including an offer price and making the conditional purchase offer available to a plurality of sellers. It follows that Shavit furthermore does not disclose or suggest the claimed step of receiving a payment identifier associated with the conditional purchase offer. Since there are no conditional purchase offers transmitted to sellers, Shavit likewise does not disclose or suggest the claimed step of receiving an acceptance from a seller in response to the conditional purchase offer.

With regard to paragraph five of the Action, the Examiner has rejected claims 1 - 10, 13-24, 27-30, 33-39, 43-52, 54, and 89-96 under 35 U.S.C. § 102(b) as being anticipated by conducting business through an agent using a telephone and/or fax. Applicants assume that the Examiner is referring to a public use that involves conducting business through an agent, since the Examiner has not cited a patent, printed publication, or sale, which are also applicable to 35 U.S.C. § 102(b). Applicants are unaware, and the Examiner has not cited, any public use discloses or suggests any use of a conditional purchase offer including an offer price, much less the claimed steps of (i) receiving a conditional purchase offer which includes an offer price, (ii) receiving a payment identifier associated with the purchase offer, (iii) transmitting the purchase offer to the plurality of sellers after receiving the payment identifier, or (iv) receiving an acceptance from a seller in response to the purchase offer, much less any such use more than one year prior to the filing date of the present application.

With regard to paragraph six of the Action, the Examiner has rejected claims 1- 10, 13-24, 28-30, 33-39, 43-52, 54-56, 66-68, 73- 82, 84, 85 and 89-96 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,168,446 to Wiseman. Wiseman is directed to a system for processing transactions among commodities traders. In Wiseman, there is no teaching or suggestion of the claimed steps of receiving a conditional purchase offer and a payment identifier associated with the conditional purchase offer, transmitting the conditional purchase offer to a plurality of sellers after receiving the payment identifier, and receiving an acceptance from a seller responsive to the conditional purchase offer.

With regard to paragraph seven, eight and nine of the Action, the Examiner has rejected claims 46 and 49-52 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Nos. 4,553,222 to Kurland et al., 4,449,186 to Kelly et al. and 4,247,759 to Yuris et al. None of these references disclose or suggest any use of conditional purchase offers. Accordingly, these references do not disclose or suggest the claimed steps of receiving a conditional purchase offer and making the conditional purchase offer available to a plurality of sellers. It follows that these references furthermore do not disclose or suggest the claimed step of receiving a payment identifier associated with the conditional purchase offer. Since there are no conditional purchase offers transmitted to sellers, there is likewise no disclosure or suggestion of the claimed step of receiving an acceptance from a seller in response to the conditional purchase offer.

With regard to paragraph ten of the Action, the Examiner has rejected claim 90 under 35 U.S.C. § 102(b) as being anticipated by on-line merchandise wanted classified ads. In such classified ads, there is no payment identifier associated with a conditional purchase offer. Accordingly, there is no step of receiving a payment identifier, nor a step of making a conditional purchase offer available after receiving the payment identifier, nor a step of providing a payment using the payment identifier.

With regard to paragraphs eleven and twelve of the Action, the Examiner has rejected claims 1-96 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,557,518 to Rosen, or alternatively under 35 U.S.C. § 103 as being obvious over Rosen in view of Reference C5, discussed above. Rosen is directed solely to the exchange that occurs after establishing a seller and buyer, merchandise the buyer desires and the seller has, and an agreed-upon price. By contrast, the present claimed invention is directed to finding sellers who are willing to provide goods the buyer desires in accordance with the buyer-specified conditions. Accordingly, Rosen does not disclose, hint or suggest the claimed steps of receiving a conditional purchase offer which includes an offer price, receiving a payment identifier associated with the conditional purchase offer, making the conditional purchase offer available to

the plurality of sellers after receiving the payment identifier, and receiving an acceptance in response to the conditional purchase offer.

Rosen cannot be combined in any obvious manner with reference C5. Rosen is directed to a system for enabling the secure exchange of electronic merchandise and electronic payment therefor. By contrast, the Marketel system of Reference C5 was designed to match seller asking prices for airline tickets with buyer bid prices. Rosen discloses that a buyer selects a particular merchant from which to purchase goods, and selects an item to purchase from that merchant. Thus, Rosen does not hint or suggest that sellers submit asking prices for their goods, buyers submit bid prices, and that asking prices are matched with bid prices to match a buyer and a seller, as does Reference C5. Thus, there is no suggestion, express or implied, to combine the two references.

Even if Rosen were combined with Reference C5, the combination thereof would not anticipate each of the elements of any of independent claims 97 and 109 - 113. As discussed above, neither Rosen nor Reference C5 includes conditional purchase offers. Accordingly, neither Rosen nor Reference C5, separately or in combination, disclose the claimed steps of receiving a payment identifier associated with a conditional purchase offer, making the conditional purchase offer available to a plurality of sellers after receiving the payment identifier, and receiving an acceptance in response to the conditional purchase offer.

Thus, it is clear that Rosen does not "teach all the features of the claims except the buyer's offer being available to multiple prospective sellers", as stated in paragraph twelve with reference to canceled claims 1-96. In addition, Applicants respectfully traverse the Examiner's statement that there is no inherent difference between a buyer and seller in the present invention. On the contrary, sellers and buyers cannot be used interchangeably in the present invention. The present invention is directed to allowing buyers, not sellers, to specify prices while simultaneously protecting the seller's price structure.

With regard to paragraphs thirteen and fourteen, the Examiner has rejected claims 11, 12, 25-27, 31, 32, 40, 42, 53, 57-65 and 69-72 under 35 U.S.C. § 103 as being obvious over Shavit and Wiseman, respectively. Newly-added independent claims 97 and 109 - 113 are distinguishable over both Shavit and Wiseman, as discussed above.

Accordingly, in light of the above, independent claims 97 and 109 - 113 are deemed patentable over the cited references. Claims 98 - 108, which depend therefrom, are likewise patentable over the cited references and in addition recite further patentable limitations. For example, claim 99 generally recites that the first received acceptance determines a first seller to whom payment is provided. Claim 100 generally recites that the financial account is a credit card account. Claim 101 generally recites the step of determining if a predetermined amount is available on the financial account. Claims 102 and 103 generally recite different ways in which payment is provided to the seller. Claim 104 generally recites the step of receiving authorization from the buyer to use the payment identifier. Further patentably-distinct dependent claims have been added.

With regard to paragraph sixteen, in newly-added claims 97 - 113, all dependent claims are grouped together with the claims to which they refer. Accordingly, all claims which remain pending in the present application are in conformance with 37 C.F.R. § 1.75(g).

With regard to paragraph seventeen, Applicants acknowledge that formal drawings will be required when the present application is allowed.

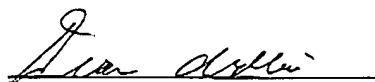
If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned at the telephone number provided below.

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Please charge any fees which may be required for this Amendment, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,



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